

## § 340.11

(iv) Miscellaneous expenses (e.g., newspapers, haircuts).

(5) Where recovery of the full amount of an erroneous payment would be made from income and resources required to meet ordinary and necessary living expenses, but recovery of a lesser amount would leave income or resources sufficient to meet expenses, recovery of the lesser amount does not defeat the purpose of the Act.

(d) *When recovery is against equity or good conscience.* Recovery is considered to be against equity or good conscience when a person, in reliance on such payments or on notice that such payment would be made, relinquished a valuable right or changed his or her position for the worse.

(e) *Recoveries not subject to waiver.* (1) Where an amount is recoverable pursuant to section 2(f) of the Act from remuneration payable to an employee by a person or company, or where a lien for reimbursement of sickness benefits has arisen pursuant to section 12(o) of the Act, and in either case recovery is sought from a person other than the employee, no right to waiver of recovery exists.

(2) Where the amount recoverable is equal to or less than 10 times the current maximum daily benefit rate under the Railroad Unemployment Insurance Act it shall not be considered contrary to the purpose of the Act or against equity or good conscience to recover such payment. Consequently, the amount recoverable is not subject to waiver under this part.

(3) Where the amount recoverable is the result of an overpayment of benefits payable under the Railroad Unemployment Insurance Act due to entitlement to annuities under the Railroad Retirement Act for the same days for which benefits were payable, and recovery of such overpayment may be made by offset against an accrual of the annuities, it shall not be considered contrary to the purpose of the Act or against equity or good conscience to recover the erroneous payment by offset against such accrual. Consequently, the amount recoverable is not subject to waiver under this part.

(4) Where there exists accumulated Federal benefits payable by any executive agency of the United States, any

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amount recoverable which is equal to or less than the accumulated Federal benefits is not subject to waiver. Any amount recoverable which is greater than the identified accumulated Federal benefits may be considered for waiver in accordance with the provisions of this part and part 320 of this chapter.

[53 FR 2489, Jan. 28, 1988, as amended at 57 FR 1379, Jan. 14, 1992]

### § 340.11 Waiver of methods of recovery.

The Board may waive any right to recover all or any part of an amount recoverable by any one or more methods without waiving the right to recover by some other method or methods if, in the judgment of the Board, the individual is without fault and if, in the judgment of the Board, recovery by the methods waived would be against equity and good conscience and recovery by such other methods would not be against equity and good conscience.

### § 340.12 Waiver not a matter of right.

A waiver under § 340.10 or § 340.11 is not a matter of right, but is at all times within the judgment of the Board.

### § 340.13 Compromise of amounts recoverable.

The Board or its designee may compromise an amount recoverable, provided such amount does not exceed \$100,000, excluding interest, or such higher amount as the Attorney General may from time to time prescribe. Compromise of an amount recoverable may not be considered in any case in which there is an indication of fraud, the presentation of a false claim or misrepresentation on the part of the debtor or his representative. Compromise is at all times within the discretionary authority of the Board or its designee.

[Board Order 27-22, 32 FR 3341, Feb. 28, 1967, as amended at 62 FR 41271, Aug. 1, 1997]

### § 340.14 Factors due to be considered in a compromise.

The following indicate the character of reasons which will be considered in approving a compromise: